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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/684,651	10/14/2003	Anthony John Kinney	BB1071 US DIV1	5261
23906	7590	01/29/2004	EXAMINER	
E I DU PONT DE NEMOURS AND COMPANY LEGAL PATENT RECORDS CENTER BARLEY MILL PLAZA 25/1128 4417 LANCASTER PIKE WILMINGTON, DE 19805			DESAI, ANAND U	
			ART UNIT	PAPER NUMBER
			1653	

DATE MAILED: 01/29/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Applicati n No.

10/684,651

Applicant(s)

KINNEY ET AL.

Examiner

Anand U Desai, Ph.D.

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-- The MAILING DATE of this communication appears on th cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on October 14, 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 22-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). 1
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1. 6) ☐ Other:

DETAILED ACTION

1. Acknowledgment is made of applicant's amendment to cancel claims 1-21, filed on October 14, 2003. To clarify the record, the amendment above has been considered and been treated on the merits. Since applicant indicated claim 1 was to be canceled, claim 1 has been treated as canceled. See also the attached interview summary. Currently, claims 22-24 are pending and under examination.

Priority

2. Acknowledgment is made of applicant's claim for priority under 35 U.S.C. 119(e) and 120. Priority date is set as June 14, 1996.

Specification

3. The disclosure is objected to because of the following informalities:

There is a typographical error on page 2, line 14 of the specification, the word "the" appears twice.

Appropriate correction is required.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

6. Claims 22-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Maruta U.S. Patent 5,516,668 in view of Rumsey et al. (Vet. Immunol. Immunopathol. 41 (3-4):323-339 (1994)). Maruta teaches a transformed seed, where the amount of a seed storage protein is reduced. The method of reducing the seed storage protein is more easily attainable and reliable than the conventional cross-breeding methods (see U.S. Patent '668, Claims 1, and 4 and Column 3, lines 26-32). The method is applicable to soybean seed storage proteins (see U.S. Patent '668, Column 4, lines 1-3, see also Column 4, lines 57-62). Rumsey et al. teach soy-based feed used as aquatic animal feed. The use of high dietary levels of soybean results in diminished growth. Certain constituents of soybean have also been shown to manifest a

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hypersensitivity response in the animals digestive processes. The hypersensitive response have been shown to be provoked by proteins glycinin and β -conglycinin (see Introduction, page 324).

One would have been motivated to produce soy-based products with reduced seed storage proteins to reduce hypersensitive response elicited upon consumption of soybean feed.

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to make a soy-based product obtained from soybean seeds of a transgenic soybean plant that has seed storage proteins reduced (current application, claims 22-24).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Anand U Desai, Ph.D. whose telephone number is (571) 272-0947. The examiner can normally be reached on Monday - Friday 8:00 a.m. - 4:30 p.m..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Low can be reached on (517) 272-0951. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0198.

January 26, 2004




CHRISTOPHER S. F. LOW
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1600